

Introduced by Senator Chesbro
(Principal coauthor: Assembly Member Evans)

February 21, 2006

An act to amend Section 23958.4 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1370, as introduced, Chesbro. Alcoholic beverages: issuance and transfer of licenses.

The Alcoholic Beverage Control Act specifies the rules and procedures for the issuance and transfer of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. The act requires the department to make a thorough investigation to determine whether the applicant for a license and the premises for which a license is applied qualify for a license, and requires the department to deny an application for a license if, among other things, issuance of the license would result in or add to an undue concentration, as defined, of licenses, except as provided. The act defines undue concentration to include the condition where the applicant premises are located in a crime reporting district that has a 20% greater number of reported crimes, as defined, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

This bill would modify the definition of a reporting districts to include those that are identified by charges per acre per Emergency Service Zone, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 23958.4 of the Business and Professions Code is amended to read:

23958.4. (a) For purposes of Section 23958, “undue concentration” means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer’s license, or a winegrower’s license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an

1 application for licensure, or (B) a completed application
2 according to local requirements, if any, whichever is later.

3 If the local governing body, or its designated subordinate
4 officer or body, does not make a determination within the 90-day
5 period, then the department may issue a license if the applicant
6 shows the department that public convenience or necessity would
7 be served by the issuance. In making its determination, the
8 department shall not attribute any weight to the failure of the
9 local governing body, or its designated subordinate officer or
10 body, to make a determination regarding public convenience or
11 necessity within the 90-day period.

12 (c) For purposes of this section, the following definitions shall
13 apply:

14 (1) “Reporting districts” means geographical areas within the
15 boundaries of a single governmental entity (city or the
16 unincorporated area of a county) that are identified by the local
17 law enforcement agency in the compilation and maintenance of
18 statistical information on reported crimes and arrests *or the*
19 *charges per acre per Emergency Service Zone*.

20 (2) “Reported crimes” means the most recent yearly
21 compilation by the local law enforcement agency of reported
22 offenses of criminal homicide, forcible rape, robbery, aggravated
23 assault, burglary, larceny theft, and motor vehicle theft,
24 combined with all arrests for other crimes, both felonies and
25 misdemeanors, except traffic citations.

26 (3) “Population within the census tract or census division”
27 means the population as determined by the most recent United
28 States decennial or special census. The population determination
29 shall not operate to prevent an applicant from establishing that an
30 increase of resident population has occurred within the census
31 tract or census division.

32 (4) “Population in the county” shall be determined by the
33 annual population estimate for California counties published by
34 the Population Research Unit of the Department of Finance.

35 (5) “Retail licenses” shall include the following:

36 (A) Off-sale retail licenses: Type 20 (off-sale beer and wine)
37 and Type 21 (off-sale general).

38 (B) On-sale retail licenses: All retail on-sale licenses, except
39 Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer
40 and wine for fishing party boat), Type 45 (on-sale beer and wine

1 for boat), Type 46 (on-sale beer and wine for airplane), Type 53
2 (on-sale general for train and sleeping car), Type 54 (on-sale
3 general for boat), Type 55 (on-sale general for airplane), Type 56
4 (on-sale general for vessels of more than 1,000 tons burden), and
5 Type 62 (on-sale general bona fide public eating place
6 intermittent dockside license for vessels of more than 15,000 tons
7 displacement).

8 (6) A “premises to premises transfer” refers to each license
9 being separate and distinct, and transferable upon approval of the
10 department.

11 (d) For purposes of this section, the number of retail licenses
12 in the county shall be determined by the most recent yearly retail
13 license count published by the department in its Procedure
14 Manual.

15 (e) The enactment of this section shall not affect any existing
16 rights of any holder of a retail license issued prior to April 29,
17 1992, whose premises were destroyed or rendered unusable as a
18 result of the civil disturbances occurring in Los Angeles from
19 April 29 to May 2, 1992, to reopen and operate those licensed
20 premises.

21 (f) This section shall not apply if the premises have been
22 licensed and operated with the same type license within 90 days
23 of the application.